

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

UNITED STATES OF AMERICA, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
                                ) No. 3:08-CR-037  
V.                             ) (PHILLIPS/SHIRLEY)  
                                )  
                                )  
KENNETH NICKOLOUS FANN, )  
                                )  
                                )  
Defendant.                 )

**ORDER WITHDRAWING MOTION FOR PRETRIAL RELEASE**

A detention hearing was held in this case on August 25, 2008. Hugh Ward, Assistant United States Attorney, was present representing the Government, and Christopher Oldham was present representing the Defendant. At the hearing, counsel for the Defendant informed the Court that the Defendant planned to have his mother testify in support of his release, but the Defendant's mother was not present at the hearing. Counsel felt the witness was indispensable to the Defendant's case. On this basis, counsel for the Defendant moved to withdraw the Motion for Pretrial Release [Doc. 31]. Counsel wished to reserve the option to re-file the motion if the Defendant's mother was available to testify. The Government had no objections to the withdrawal with the possibility of re-filing. The Defendant was present and affirmed that he understood his Motion for Release was being withdrawn. The Court informed both parties that the trial date in this case remains September 17, 2008.

For good cause, and by agreement of the Defendant and the Government, Defendant's request to withdraw his Motion for Pretrial Release [Doc. 31] is **GRANTED**. Defendant may re-file the motion at a later time, but Defendant's trial date remains September 17, 2008.

It is therefore **ORDERED** that:

- (1) Defendant remain detained.;
- (2) Defendant remain committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
- (3) Defendant be afforded reasonable opportunity for private consultation with counsel; and
- (4) On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the Defendant is confined deliver the defendant to a United States marshal for the purpose of an appearance in connection with any court proceeding.

ENTER:

s/C. Clifford Shirley, Jr.  
United States Magistrate Judge